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16 May 1973

MEMORANDUM FOR: Mr. John Maury  
Legislative Counsel

SUBJECT : Mr. Adams' Documents

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1. I am herewith returning [redacted] 13 May memorandum to you ("Forwarding the Attachments") and its accompanying copies of the three documents enumerated therein.

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2. Mr. [redacted] of your staff, Mr. [redacted] of OCI and I met this afternoon (14 May) from about 1430 to 1645 with Messrs. Moose and Lowenstein of the Senate Foreign Relations Committee staff and [redacted]. The meeting was held in Mr. Lowenstein's office and [redacted] will be filing a fuller report on it.

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3. The subject of these documents was raised by Mr. Moose in a relatively low key about two-thirds of the way through our session. I explained to Moose and Lowenstein that the initial request for the documents, which had come from Senator Symington's office, had the titles slightly garbled and assigned them to the wrong year. Thus, upon receiving the initial request, we had honestly been unable to identify the documents in question. We had now identified them and found them to be two versions, one TOP SECRET, one SECRET, of a study done by [redacted] on "Communism and Cambodia" while he was on the Special Research Staff. (The documents were issued in, respectively, February and May 1972).

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4. I then told Messrs. Moose and Lowenstein that the Agency had an institutional problem with respect to requests for classified Agency documents from the staffs of members of Congress or Congressional committees. Over the long haul, it seemed to us that the least net damage was done by adhering to a generic rule of declining such requests. Such refusal was not based on the merits of any given request or legitimacy of any given requestor's needs. The difficulty lay in the fact that unless one had an impersonal rule to fall back on, one was forced into making invidious distinctions, telling X that he could not have something and when he asked why it had been given to Y having then to base the refusal on grounds that might be taken personally.

5. Moose would have liked to argue the issue. Half (but only half) jokingly, he asked if I was making a claim of executive privilege. I told him to come off it, that I was explaining a continuing problem with no perfect solution and not engaging in legal debate. (I have known Moose long enough and well enough to make such remarks without his taking offense.) At this point, Lowenstein cut Moose off. Lowenstein professed himself sympathetic to our problem and said he quite understood our position, adding that it was the position he would adopt if he were in our shoes. He felt there ought to be some better institutional resolution of this admittedly complex issue but for the time being, until a better policy could be devised, he thought ours was the right one to stick to. I strongly suspect Messrs. Moose and Lowenstein have already received copies of the documents in question from [REDACTED] and that this partially accounts for their unruffled demeanor at our refusal -- though I emphasize this is pure speculation. In any event, the matter was dropped and engendered no further discussion.

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Attachments

cc: DCI  
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